


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 2701 Winchester Street		

TO

Mr. David Tanner, Executive Director
Board of Municipal and Zoning Appeals
417 East Fayette Street, 14th Floor

DATE: November 19, 2012

REQUEST

The Department of Planning has received Leonard Wiley's Board of Municipal and Zoning Appeals (BMZA) application to use the first level of the premises as a grocery store. We understand that this appeal was scheduled for hearing on October 30, 2012, but due to weather-related closure of City Hall had to be rescheduled for hearing on November 27, 2012.

SITE

2701 Winchester Street is located on the southwest corner of the intersection with Ashburton Street. This property measures approximately 15' by 110' and is currently improved with a two-story end-of-row residential building measuring approximately 15' by 56'. This site is zoned R-6.

ANALYSIS

Use: In this zoning district, grocery stores are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as a grocery store and confectionary, which is a nonconforming use in this R-6 General Residence District. The basement of the premises, which extends under the front porch, has been made directly accessible from Ashburton Street, and the basement wall has been partly modified to include a store-front facing that street.

Determination of nonconformity or noncompliance: (a) Whether a nonconforming use, noncomplying density or other form of nonconformity exists is a question of fact that, except as specified in subsection (b) of this section, must be decided by the Board after public notice and hearing in accordance with the rules of the Board (§13-107).

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1). The applicant must demonstrate that the nonconforming grocery store and confectionary use has not been discontinued or abandoned in order for the Board to be able to consider this application.

RECOMMENDATION

The Department of Planning has no objection to this appeal if the applicant can demonstrate that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Leonard Wiley, Appellant

Western